

REMARKS/ARGUMENTS

Claims 1-4, 6-15, 31, 63 and 67 are pending in the present application; claims 1-3, 6-9, 11-15, 31, 63 and 67 have been rejected; and claims 4 and 10 have been objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form. With entry of this Amendment, claims 1 and 31 have been amended, claims 2, 3, 4, 6, 7, 8, 9 and 11 have been cancelled without prejudice to further prosecution and claims 68, 69 and 70 have been added. More particularly, claims 1 and 31 have been amended to incorporate the limitations of claims 4 and 63, respectively, and thus, no new matter has been added. Moreover, support for new claims 68, 69 and 70 can be found in the specification and claims as originally filed (*see, e.g.*, page 60, lines 12-19 of the specification and originally filed claim 10) and, thus, no new matter has been added.

In the Office Action, claims 1-3, 6-9, 11-15, 31, 63 and 67 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly enabled only for a nucleic acid encoding an amino acid of SEQ ID NO:1 and a nucleic acid having a nucleotide sequence of SEQ ID NO:2, and as allegedly lacking written description. In addition, claims 1-3, 6-9, 11-15, 31, 63 and 67 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. For the reasons set forth below, each of these rejections is overcome.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1-3, 6-9, 11-15, 31, 63 and 67 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly enabled only for a nucleic acid encoding an amino acid of SEQ ID NO:1 and a nucleic acid having a nucleotide sequence of SEQ ID NO:2, and as allegedly lacking written description. However, in the Office Action, the Examiner indicated that claims 4 and 10 have been objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form (*see*, page 8 of the Office Action).

In order to expedite prosecution of the present case, Applicants have amended the claims in accordance with the Examiner's suggestion. More particularly, claims 1 and 31 have been amended to recite "an isolated nucleic acid encoding an IRAK-4 polypeptide, wherein said

polypeptide has IL-1R/Toll family member signal transduction activity and comprises an amino acid sequence of SEQ ID NO:1.” In addition, new claims 68 and 70 recite “an isolated nucleic acid encoding an IRAK-4 polypeptide, said polypeptide having IL-1R/Toll family member signal transduction activity, wherein said nucleic acid comprises a nucleotide sequence of SEQ ID NO:2.” In view of the amendments to the claims, the Examiner’s concerns have been overcome. Accordingly, Applicants urge the Examiner to withdraw the § 112, first paragraph, rejections.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1-3, 6-9, 11-15, 31, 63 and 67 are rejected under 35 U.S.C. § 112, , second paragraph, as allegedly indefinite. However, in the Office Action, the Examiner indicated that claims 4 and 10 have been objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form (*see*, page 8 of the Office Action).

Again, in order to expedite prosecution of the present case, Applicants have amended the claims in accordance with the Examiner’s suggestion. More particularly, claims 1 and 31 have been amended to recite “an isolated nucleic acid encoding an IRAK-4 polypeptide, wherein said polypeptide has IL-1R/Toll family member signal transduction activity and comprises an amino acid sequence of SEQ ID NO:1.” In addition, new claims 68 and 70 recite “an isolated nucleic acid encoding an IRAK-4 polypeptide, said polypeptide having IL-1R/Toll family member signal transduction activity, wherein said nucleic acid comprises a nucleotide sequence of SEQ ID NO:2.” In view of the amendments to the claims, the Examiner’s concerns have been overcome. Accordingly, Applicants urge the Examiner to withdraw the § 112, second paragraph, rejection.

CONCLUSION

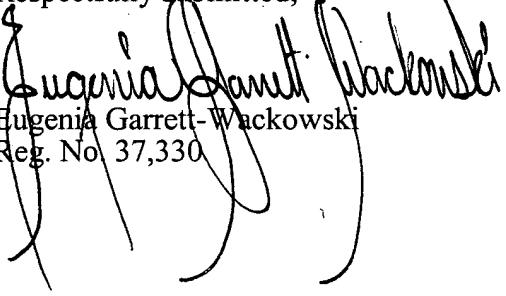
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 09/759,595
Amdt. dated March 4, 2004
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,


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